

Chapter 138

Demolition Review

[HISTORY: Adopted by the Town Meeting of the Town of Ipswich 4-6-1987 ATM, approved by Attorney General 8-24-1987 (Ch. XVI of the 1973 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Architectural preservation district — See Ch. **113**.

Penalties — See Ch. **300**.

Noncriminal disposition of violations — See Ch. **325**.

§ 138-1 Intent and purpose.

The purpose of this chapter is the preservation and protection of significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, political, economic, and/or social history of the Town; to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate, or restore such buildings rather than demolish them; and by furthering these purposes, to promote the public welfare, to protect the resources of the Town, and to preserve the Town as an attractive and desirable place in which to live. To achieve these purposes, the Ipswich Historical Commission (the "Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided in this bylaw.

§ 138-2 Definitions.

- A. Building - as defined in "SECTION III." of The Protective Zoning Bylaw of the Town of Ipswich.
- B. Demolition - any act of pulling down, destroying, removing, or razing a building, or any substantial exterior portion thereof, or commencing the work of total or substantial destruction, with the intent of completing the same.
- C. Significant Building - any building or portion thereof which:
 - (1) Is in whole or in part constructed prior to 1915; or
 - (2) Is listed on, or is within an area listed on, the National Register of Historical Places, or is the subject of a pending application for listing on said National Register; or
 - (3) Is protected by a Preservation Agreement with the Commission or the Heritage Trust;
 - (4) And is determined by a majority of the Commission at a public meeting to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect, or builder, or other historically significant person, event or process either by itself or in the context of a group of buildings.
- D. Preferably-Preserved Significant Building - any Significant Building which the Commission determines, after a Public Hearing as provided in § 138-3, is in the public interest to be preserved or rehabilitated, rather than to be demolished.
- E. Commission – the Ipswich Historical Commission.

§ 138-3 Procedure.

- A. Upon receipt of an application for a demolition permit, the Building Inspector shall date-stamp the application and forward a copy to the Chair of the Commission and the Planning Director within four (4) business days. No demolition permit shall be issued at that time.
- B. The Chair of the Commission, with the Planning Director, shall within eight (8) business days of the date of receipt of an application determine whether the building is a Significant Building under §138-2C (1), (2) or (3). If the building is determined not to be a Significant Building under §138-2C (1), (2) or (3), the Chair of the Commission shall notify the Building Inspector and the owner, in hand or by certified mail, that a demolition permit may be issued. If the building is determined to be a Significant Building under §138-2C (1), (2) or (3), the Chair will notify the Building Inspector and the owner, and the Commission shall hold a public meeting within 20 business days of the date of receipt of the application to determine whether the building is a Significant Building under §138-2C (4). The Commission may schedule a site visit of the property, with the owner's consent, to assist with its determination.
- C. If a majority of the Commission determines during a public meeting that the building, for which a demolition permit has been applied, is a Significant Building under §138-2C, the Chair of the Commission shall notify the Building Inspector and the owner of the building, in hand or by certified mail, within four (4) business days of their meeting. The demolition permit shall be denied at this time, and the Commission shall advise the owner of the building of the procedure to be followed to determine whether a permit to demolish a Significant Building may be issued. If a majority of the Commission determines during a public meeting that the building for which a demolition permit has been applied is not a Significant Building under §138-2C, the Chair of the Commission shall notify the Building Inspector and the owner of the building, in hand or by certified mail, within four (4) business days of their meeting, that a demolition permit may be issued.
- D. Before approval or disapproval of the application for the demolition of a Significant Building, a Public Hearing shall be held by the Commission within 45 calendar days of the date of receipt of the application. Notice of the time and place of such Public Hearing shall be given by the Commission at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Ipswich, once in each of two successive weeks, the first publication being not less than 14 calendar days before the day of the hearing. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon and/or within 300 feet of the lot on which the Significant Building is located, as appearing in the most recent tax list.
- E. If, after such Public Hearing, the Commission determines that the demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and the owner, in hand or by certified mail, within 21 calendar days after the Public Hearing. Upon receipt of such notification, or after the expiration of 21 calendar days from the conduct of the Hearing, if the Building Inspector and the owner have not received notification from the Commission, the Building Inspector may, subject to the requirements of the state building code and other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- F. If the Commission determines that the demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a Preferably-Preserved Significant Building. In making such a determination, the Commission may consider any hardships associated with the property.
- G. Upon such determination by the Commission, the Commission shall so advise the applicant and the Building Inspector, in hand or by certified mail, within 21 calendar days of the conduct of the hearing, and no demolition permit may be issued until 18 months after the date of such determination by the

Commission, except under the conditions of Subsection H of this section. [Amended 4-5-2004 ATM, approved by Attorney General 5-3-2004]

H. Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a Preferably-Preserved Significant Building after receipt of written advice from the Commission to the effect that either:

- (1) The Commission is satisfied at any time after the conduct of the hearing that there is no reasonable likelihood either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building; or
- (2) The Commission is satisfied that, for at least six months, the owner has made continuing, bona fide, and reasonable efforts to locate a purchaser to preserve, rehabilitate, and restore the subject building, and that such efforts have been unsuccessful. These efforts would include listing the building with a realtor or realtors for the six months, advertising in local general circulation newspapers, and advertising in one Boston area general circulation newspaper.

§ 138-4 Enforcement and remedies.

- A. The Commission and/or the Building Inspector are each authorized to institute any and all proceedings, in law or equity, as either deems necessary and/or appropriate to obtain compliance with the requirements of this bylaw, and/or to prevent any violation thereof.
- B. No building permit shall be issued with respect to any premises upon which a Significant Building has been voluntarily demolished in violation of this bylaw for a period of two years after the date of the completion of such demolition as determined by the Building Inspector and documented in a letter to the Commission. As used herein, “premises” includes the parcel of land upon which the demolished Significant Building was located.
- C. Upon a determination by the Commission that a building is a Preferably-Preserved Significant Building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail so to secure the building, and as a result, such building is lost through fire or other cause, this shall be considered voluntary demolition for the purposes of § 138-2.

§ 138-5 Ordinary maintenance.

Nothing in this bylaw shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature.

§ 138-6 Portions of Significant Buildings.

Nothing in this bylaw shall be construed to prevent the demolition of those portions of Significant Buildings which are not in themselves Significant. In such cases, the Historical Commission shall notify the Building Inspector within 20 business days of the date of application that a demolition permit may be issued.

§ 138-7 Severability.

If any section, paragraph, or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

§ 138-8: Coordination with Other Town Boards and Bylaws.

The Historical Commission authority as established in this bylaw shall not supersede or interfere with the regulatory authority of the Ipswich Architectural Preservation District Commission according to Chapter 113 of the Ipswich General Bylaw.

[Amended 10-17-2020 Special Town Meeting]